



## **Atlantic County Utilities Authority**

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Surface Transportation Board  
395 F Street, S.W  
Washington, D.C. 20423-0001

224727

**Attention: STB Ex Parte No. 684**

**To Whom It May Concern:**

By decision dated January 14, 2009, the Surface Transportation Board ("Board") issued a Notice of Proposed Rulemaking ("NPR") containing proposed rules to implement the provisions of the Clean Railroads Act of 2008, Pub L. No 110-432, 122 Stat 4848 ("CRA"), and providing that the proposed rules were effective immediately as interim rules until the Board issued a final rule. The NPR was published in the Federal Register on January 27, 2009, 74 Fed Reg. 4714 (January 27, 2009), and indicated that comments should be submitted to the Board on the proposal until February 23, 2009, with reply comments submitted by March 23, 2009.

The Atlantic County Utilities Authority is in concurrence with the reply comments asserted by Beveridge & Diamond, P.C. Counsel for the National Solid Waste Management Association and co-signed by representatives of Integrated Waste Services Association, Construction Materials Recycling Association, Solid Waste Association of North America and The U.S. Conference of Mayors dated March 16<sup>th</sup>, 2009.

To summarize the reply comments referenced above.

The American Short Line and Regional Railroad Association (ASLRRA) comments encourage the Board to interpret the Clean Railways Act (CRA) in such a way to expand the scope of the Board's preemption authority by separating the Board's land-use exemption authority from its traditional jurisdictional authority over rail transport. ASLRRA argues that the Board has jurisdiction to grant land-use exemptions for waste facilities regardless of the facilities' connection to the rail carrier. It was not the intent of the CRA to allow the Board the ability to circumvent state and local environmental laws in regard to non-rail carrier operations such as solid waste processing and handling regardless of its form.

Salem Rail Logistics (SRL) LLC comment #2 suggests the Board should extend the deadline for existing facilities to submit applications for exemptions. This is not appropriate since the CRA clearly establishes this deadline.

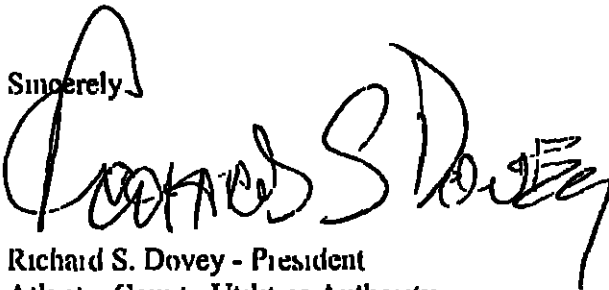
SRL comment #4 argues that existing solid waste facilities should be entitled a special exemption from restrictions on operating inside a national park or national wildlife refuge. The CRA does not allow for such an exemption if there are federal prohibitions that exist on such operations.

SRL comment #4 argues that the Board use it's own staff to handle environmental reviews rather than third party consultants. The goal of the CRA is to protect the environment and not to limit the much needed environmental review and oversight process in anyway.

SRL comment #6 suggests that the Board limit non-siting state environmental laws that a solid waste facility must comply with to those that are reasonable. The goal of the CRA was to ensure that solid waste facilities at rail sites fall under the same requirements as any other non-rail solid waste facility.

SRL comment #8 requests the Board extend the application due date for existing facilities from 120 days to 180 days. This is clearly just a stall tactic and a way to needlessly prolong the process.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard S. Dovey". The signature is written in a cursive, flowing style with a large initial "R".

Richard S. Dovey - President  
Atlantic County Utilities Authority

**RESOLUTION 09-3-61: SUPPORTING NATIONAL SOLID WASTE MANAGEMENT ASSOCIATION'S POSITION ON SURFACE TRANSPORTATION BOARD NOTICE OF PROPOSED RULEMAKING RELATING TO LOCAL AND STATE ENFORCEMENT OF ENVIRONMENTAL LAWS AT TRANSFER STATIONS APPURTENANT TO RAILROAD FACILITIES.**

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**ATLANTIC COUNTY UTILITIES AUTHORITY  
RESOLUTION 09-3-61**

**RESOLUTION IN SUPPORT OF  
NATIONAL SOLID WASTE MANAGEMENT ASSOCIATION  
POSITION ON SURFACE TRANSPORTATION  
BOARD NOTICE OF PROPOSED RULEMAKING  
RELATING TO THE CLEAN RAILROADS ACT OF 2008,  
SPECIFICALLY LOCAL AND STATE ENFORCEMENT  
OF ENVIRONMENTAL LAWS AT TRANSFER STATIONS  
APPURTENANT TO RAILROAD FACILITIES**

WHEREAS, by decision dated January 14, 2009, the Surface Transportation Board ("STB") issued a Notice of Proposed Rulemaking ("NPR") containing proposed rules to implement the provisions of the Clean Railroads Act of 2008, Pub. L. No. 110-432, 122 Stat. 4848 ("CRA"), and providing that the proposed rules were effective immediately as interim rules until the Board issued a final rule; and

WHEREAS, The NPR was published in the Federal Register, 74 Fed. Reg. 4714 (January 27, 2009), and indicated that comments should be submitted to the Board on the proposal until February 23, 2009, with reply comments submitted by March 23, 2009; and

WHEREAS, Beveridge & Diamond, P.C., Counsel for the National Solid Waste Management Association has prepared and submitted comments regarding the NPR and its implementation of the Clean Railroads Act of 2008 specifically as it relates to and governs regulation of solid waste facilities, Railroad rights of way, and local and state enforcement of environmental laws applicable thereto, with said submission co-signed by representatives of Integrated Waste Services Association, Construction Materials Recycling Association, Solid Waste Association of North America and The U S Conference of Mayors and dated March 16th, 2009.

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners of the Atlantic County Utilities Authority that the Atlantic County Utilities Authority is in concurrence with the reply comments asserted by Beveridge & Diamond, P.C. Counsel on behalf of the National Solid Waste Management Association, Integrated Waste Services Association, Construction Materials Recycling Association, Solid Waste Association of North America and The U.S. Conference of Mayors and dated March 16th, 2009


IT IS FURTHER RESOLVED that the President of the Atlantic County Utilities Authority be and hereby is authorized to submit a letter in support of the position taken by the National Solid Waste Management Association, Integrated Waste Services Association, Construction Materials Recycling Association, Solid Waste Association of North America and The U.S. Conference of Mayors as set forth in said letter dated March 16th, 2009. This Resolution shall be appended to said letter.

This resolution shall take effect only upon review and approval by the Atlantic County Executive pursuant to P.L. 1995, c. 91.

ATLANTIC COUNTY UTILITIES AUTHORITY

  
MATTHEW GALLAGHER, CHAIRMAN

(SEAL)

  
BRIAN G. LEIKE, SECRETARY  
Date adopted: March 19, 2009